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Cr25
or

Division Bench (Civil)

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

Misc. Petition No. 4220 of 1989

Petitioner : - Smt. Baisakhin Bai, widow of Jagannath Prasad Tiwari, aged 63 years, resident Hiramoti Line, Ward No. 29, Rajnandgaon, tah. and dist. Rajnandgaon (M.P.).

26-8-89
Soni

as

v.

Respondents : - 1. Gomatibai, aged 24 years, wife of Banwarilal, resident of Gangapur City, district Sawai Madhopur, Rajasthan, formerly residing at Rajnandgaon.

5 2. Shri A.L.Nimonkar, Civil Judge, Class I, Rajnandgaon.

5 3. Shri G.C.Bajpai, First Additional Judge to the Court of District Judge, Rajnandgaon.

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

MISSIO

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक

WP 4220/89

सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
1p	21/4/2005 Shri Parag Kotecha for the petitioner. Heard. Learned counsel for the petitioner fairly stated that the petitioner's case was based upon a Single Bench decision of the M.P. High Court in the case of Ram Dutta vs. Krishna Dutta reported in 1987 J.L.J 198 for the proposition that a Hindu cannot establish a right under a will by an executor or a legatee unless probate or letters of administration of the will have been obtained, which is reflected in the order sheet dated 21/11/1989. Learned counsel for the petitioner submitted that the said decision has been over-ruled by the decision reported in 1991 (1) MPJR 352 (Phool Singh and others vs. Smt. Kosa Bai and others), which is borne out from another judgment passed by the High Court of M.P. on 28/7/2000 in Second Appeal No.215/99. It is also submitted that no useful purpose would be served in keeping this matter pending. Even otherwise, the plaintiff has filed the suit, which is reflected from the order sheet (Annexure-P/4) of the learned Addl. District Judge. Having considered the facts and circumstances of the case, material on record and the fact that the civil suit has been filed, which may be decided on its own merits in accordance with law, no useful purpose would be served in keeping this matter pending. With the aforesaid observations, this petition stands disposed of.	

Sd/-
Fakhruddin
Judge

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